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FILED WITH THE BOARD
OF MORTUARY SCIENCE
ON SEPTEMBER 1, 2004

By: Sunil Raval
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CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MORTUARY SCIENCE

IN THE MATTER OF THE SUSPENSION OR	:	
REVOCATION OF THE LICENSE AND	:	
REGISTRATION OF:	:	
	:	Administrative Action
MICHAEL J. GIVNISH	:	
License No. JPO 3443	:	CONSENT ORDER
	:	
THOMAS J. GIVNISH	:	
License No. JPO 3804	:	
	:	
LEE-GIVNISH FUNERAL HOME	:	
Permit No. JB 01047	:	
	:	
INGLESBY-GIVNISH FUNERAL HOME	:	
Permit No. JB 00111	:	
	:	
SNOVER-GIVNISH FUNERAL HOME	:	
Permit No. JB 00126	:	
	:	
TO PRACTICE MORTUARY SCIENCE AND	:	
TO OPERATE REGISTERED MORTUARIES	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Mortuary Science (hereinafter "the Board") upon receipt of information that alleged that unlicensed persons were making funeral arrangements at Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, and Snover-Givnish Funeral Home. Specifically, it has been alleged that Michael Givnish,

the manager of Inglesby-Givnish Funeral Home and Snover-Givnish Funeral Home was permitting two unlicensed employees, Eva Brothers and Frederick Oschell, to make funeral arrangements, perform or assist in embalming, and sign their names to various documents. Furthermore, it was alleged that Thomas Givnish, the manager of Lee-Givnish Funeral Home was permitting a registered intern, Frederick Oschell, and Eva Brothers, an unregistered intern to make funeral arrangements, perform or assist in embalming while not under his direct supervision. On December 3, 2002, Frederick C. Oschell, Michael J. Givnish, and Thomas J. Givnish appeared at investigative inquiries into the matter held by the Board.

Having reviewed the entire record, including the testimony of Frederick C. Oschell, Michael J. Givnish, and Thomas J. Givnish at the investigative inquiries, it appears to the Board that at least one of the funerals performed at Lee-Givnish Funeral Home, managed by Thomas J. Givnish, did not have a signed at-need Statement of Funeral Goods and Services Selected (SFGS) which is a violation of N.J.A.C. 13:36-11.2(d)(2). In addition, the documents provided by respondent indicated that on at least one occasion, a pre-need arrangement was utilized, but no pre-need documents were available, in violation of N.J.A.C. 13:36-1.8(a), (b), and (c).

It also appears to the Board that at least one funeral performed at Inglesby-Givnish Funeral Home and Snover-Givnish Funeral Home, managed by Michael J. Givnish, was carried out in violation of the following Board regulations for mortuary science: (1) N.J.A.C. 13:36-1.9(a)(2) where the SFGS(s) were not adequately completed by including the license number of the person making the arrangements and the signature of a

licensed practitioner on the document, (2) N.J.A.C. 13:36-4.9(a), which states that no unlicensed person shall actively participate in arrangement or preservation, (3) N.J.A.C. 13:36-4.9(b) which provides that the use of the words "funeral director" by an unlicensed person shall constitute deceptive practice, (4) N.J.A.C. 13:36-1.9(f) which states that the practitioner and consumer shall sign the form upon completing the SFGS, and (5) N.J.A.C. 13:36-1.8(a), (b), and (c) which state that a licensed practitioner is required to maintain full and accurate records to be kept for six (6) years, including the SFGS.

Finally, it also appears that neither Michael J. Givnish nor Thomas J. Givnish ensured that their employee, Eva Brothers, was registered as an intern for working purposes in the mortuary sciences in the State of New Jersey, a violation of N.J.A.C. 13:36-8.4 which states that a licensed practitioner of mortuary science shall not employ or engage the services of any person other than his or her registered intern or interns in the embalming of cadavers or in the practice or funeral management.

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e), (h) and (n). It appearing that respondents, without admission of guilt, desire to resolve this matter without recourse to formal proceedings, and the Board having considered the mitigating circumstances presented in the testimony, in the interests of justice and for good cause shown:

IT IS ON THIS 1 DAY OF September 2004,

HEREBY ORDERED AND AGREED THAT:

1. Respondent Michael J. Givnish's license to practice mortuary science shall be suspended for a period of one (1) year and three (3) months, effective immediately upon entry of this Consent Order. The first three (3) months of the suspension shall be served as a period of active suspension, and the remainder shall be stayed and served as a period of probation, contingent on compliance with all of the terms of this Consent Order. In the event of a violation of the terms of the Consent Order, such stayed period of suspension shall immediately become active.

2. Respondent Thomas J. Givnish's license to practice mortuary science shall be and hereby is suspended for a period of one (1) year and three (3) months, effective immediately upon entry of this Consent Order. The first three (3) months of the suspension shall be served as a period of active suspension, and the remainder shall be stayed and served as a period of probation, contingent on compliance with all of the terms of this Consent Order. In the event of a violation of the terms of the Consent Order, such stayed period of suspension shall immediately become active.

3. The registrations of Respondents Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, and Snover-Givnish Funeral Home shall be and hereby are suspended for a period of one (1) year, effective upon entry of this Consent Order. The entire period of suspension of registration shall be stayed and served as a period of probation, contingent on compliance with all of the terms of this Consent Order.

In the event of a violation of the terms of the Consent Order, such suspension shall immediately become active. Any manager(s) of Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, and Snover-Givnish Funeral Home during the period of this suspension shall be provided with a copy of this Consent Order, and shall notify the Board in writing that he or she has reviewed this Consent Order and understands the obligations set forth herein.

4. Respondents Michael J. Givnish, Thomas J. Givnish, Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, and Snover-Givnish Funeral Home are hereby jointly and severally assessed civil penalties, pursuant to N.J.S.A. 45:1-22, in the amount of \$30,500 for the regulatory and statutory violations described in this Order. Payment of the civil penalties shall be submitted by certified check, money order, or attorney escrow check made payable to the State of New Jersey and shall be sent to William Mandeville, Executive Director, 124 Halsey Street, Sixth Floor, P.O. Box 45009, Newark, New Jersey 07101. In payment of the \$30,500 in civil penalties, respondent shall make a single payment of \$30,500. The payment shall be due within thirty (30) days of the entry of this Consent Order. Subsequent violations will subject respondents to enhanced penalties pursuant to N.J.S.A. 45:1-25.

5. Respondents Thomas J. Givnish, Michael J. Givnish, Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, and Snover-Givnish Funeral Home hereby jointly and severally assessed the costs of the investigation to the State in this matter in the amount of \$19,500. Payment for the costs shall be submitted by certified check, money order or attorney escrow check made payable to the State of New Jersey and submitted to the

Board contemporaneously with the entry of this Consent Order. Payment shall be sent to William Mandeville, Executive Director, at the address described in paragraph #4.

6. Failure to remit any payment as required by this Order will result in the filing of a certificate of debt.

7. Respondents shall cease and desist from permitting unlicensed personnel to make funeral arrangements, sign documents with the funeral director's name, or actively participate in the arrangement or preservation. Respondents shall also cease and desist using the Statement of Funeral Goods and Services Selected which contains a promissory note or contract and fails to contain the manager's name. Respondents will also ensure that all employees working as interns in the State of New Jersey are registered properly with the New Jersey State Board of Mortuary Sciences. Respondents shall comply with all requirements regarding the Statement of Funeral Goods and Services Selected and all other funeral home documents within thirty (30) days from the entry of this Consent Order.

8. Respondents Thomas J. Givnish and Michael J. Givnish, during period of active suspension, are enjoined from performing any services required to be performed by a licensed funeral director. In addition, neither Thomas J. Givnish nor Michael J. Givnish shall be present in the funeral home while people are making funeral arrangements, whether pre-need or at need. They shall not make in-home removals. They shall not hold themselves out in any manner as funeral directors or as being authorized to make funeral arrangements. In the event Thomas J. Givnish or Michael J. Givnish, during period of active suspension, choose to

attend a public viewing or funeral arranged by a licensed funeral director from or at Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, or Snover-Givnish Funeral Home they shall not be permitted to accompany the funeral director, make announcements or committal prayers, or participate in any aspect of the funeral procession, including, without limitation, driving or traveling in any funeral home vehicle. They may not indicate that they are participating in the funeral in any capacity other than as a member of the family or of the public, as appropriate. At the conclusion of the period of the active suspension, Thomas J. Givnish and Michael J. Givnish may resume any activities which a licensed person is permitted to perform pursuant to law.

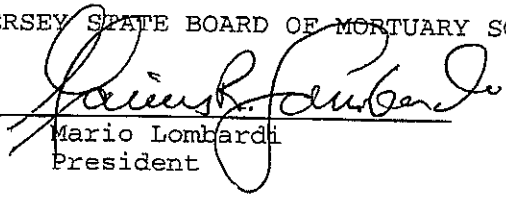
9. For all public viewings or funerals arranged by a licensed funeral director for or at Lee-Givnish Funeral Home, Inglesby-Givnish Funeral Home, or Snover-Givnish Funeral Home that are attended by Thomas J. Givnish or Michael J. Givnish during period of active suspension, the funeral home's manager shall maintain a log listing the name of the deceased, the date of the funeral, whether it was attended by Thomas J. Givnish or Michael J. Givnish, and list what events each attended (for example: viewing, funeral ceremony, cemetery). The log is to be available to the Board upon request. The manager of the funeral home is responsible for ensuring compliance with the terms of this Consent Order.

10. Neither the Board, the Attorney General of New Jersey nor the State of New Jersey Department of Law and Public Safety shall institute any proceeding of any type, to enforce any alleged violation of any law or regulation relating to any act or omission which relates to conduct which (a) is the subject of this Consent Order or (b) was the subject of

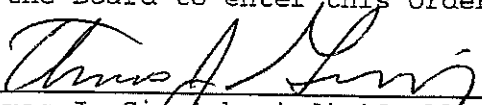
the testimony on December 2, 2002.

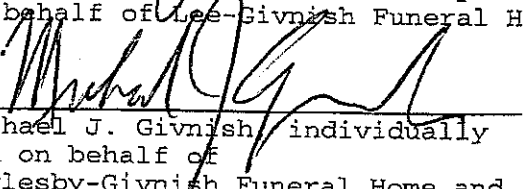
NEW JERSEY STATE BOARD OF MORTUARY SCIENCE

By:

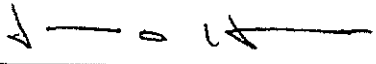

Mario Lombardi
President

I have read and understand the within
Consent Order and agree to be bound
by its terms. Consent is hereby given
to the Board to enter this Order.


Thomas J. Givnish, individually and
on behalf of Lee-Givnish Funeral Home


Michael J. Givnish, individually
and on behalf of
Inglesby-Givnish Funeral Home and
Snover-Givnish Funeral Home

Consent is given as to the form of this Order:


James O. Hausch, Esq.